THE HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION Nos.8399 and 8450 of 1997

DATED:24.01.2007

W.P.No.8399 of 1997

Between:

S. Neeleshwar ….Petitioner

AND

The Registrar, Osmania University,
Hyderabad and another …Respondents

W.P.No.8450 of 1997

B. Rajasekhar Reddy ….Petitioner

AND

The Registrar, Osmania University,
Hyderabad and another …Respondents

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COMMON ORDER:

These two writ petitions are filed seeking a Mandamus to direct the respondents to regularise the services of the petitioners from the date of their respective initial appointments with all incidental and consequential benefits by declaring the action of the respondent-University in not regularising their services even though they have been working in the substantial vacancies, as arbitrary and illegal.

A detailed counter-affidavit has been filed by the respondent-University stating that the scheme evolved for the purpose of absorbing the par-time Lecturers as per G.O.Ms.No.221 dated 20.06.1995 is not applicable to the University teachers and the said G.O. is applicable only to the Lecturers working in Government Junior and Degree Colleges in the State. Osmania University is an autonomus body and guided by the A.P. Universities Act, 1991 and the petitioners being part-time teachers in the said University, G.O.Ms.No.221 dated 20.06.1995 has no application to them. Apart from that, there is no scheme available for regularization of the part-time teachers working in University Colleges.

The learned Counsel for the petitioners did not dispute the same seriously.

The learned Counsel for the respondents also placed reliance on the Judgment of the Supreme Court reported in **SECRETARY, STATE**

OF KARNATAKA AND OTHERS v. UMA DEVI (3) AND OTHERS[1]

and drawn the attention of this Court to para 43, which reads as under:-

> "Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. The High

> Courts acting under Article 226 of the Constitution, should not ordinarily issue directions for absorption, regularisation, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because an employee had continued under cover of an order of the Court, which we have described as "litigious employment" in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The court must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates."

In view of the above, both the writ petitions are liable to be dismissed.

Accordingly, the writ petitions are dismissed. No costs.

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24th January, 2007

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[1] (2006) 4 SCC PAGE 1